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**EX PARTE PRESENTATION**

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May 28, 1998

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

MAY 28 1998


RE: CC Docket No. 96-128 – Payphone Compensation

Dear Ms. Salas:

On May 27, 1998, Al Lewis and Bob Castellano of AT&T, Rachel Rothstein of Cable & Wireless, Michael Shortley of Frontier, Steve Augustino of Kelley, Drye and Warren (on behalf of CompTel and LCI), Len Sawicki of MCI, and the undersigned met with Robert Spangler, Jennifer Myers, Craig Stroup, Rose Crellin, Chris Gerstle and Greg Lipscomb of the Common Carrier Bureau's Enforcement Division to discuss the remand of the referenced proceeding by the U.S. Court of Appeals for the District of Columbia Circuit.<sup>1</sup> We discussed both substantive options available to the Commission and procedures to be followed in acting on remand. Our presentation made the points shown on the attached handout. We also stated that we were authorized to inform the staff that our views were shared by two other carriers – WorldCom and Excel – whose representatives were unable to attend the meeting.

An original and one copy of this letter are being filed.

Sincerely,

  
Richard Juhnke  
General Attorney

Attachment

cc: Robert Spangler (without attachment)  
Jennifer Myers (without attachment)  
Craig Stroup (without attachment)  
Rose Crellin (without attachment)  
Chris Gerstle (without attachment)  
Greg Lipscomb (without attachment)

<sup>1</sup> MCI Telecommunications Corp., et al. v. F.C.C., CADC No. 97-1675, decided May 15, 1998.

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# **PAYPHONE II REMAND**

IXC Industry Views On  
Substantive Options And  
Procedural Issues

## Substantive Options

- If the Commission wants a market-based approach that will survive judicial review, it could reconsider the calling party pays option. The Court's affirmance, in Payphone I, of the Commission's earlier rejection of calling party pays does not foreclose the Commission from deciding to adopt such an approach if it so chooses.
- Under a carrier pays system, the only rational "market-based" approach would be to construct a surrogate based on the \$0.25 rate for dial-around calls agreed to by AT&T and APCC. The rate must be ratcheted down to a composite rate that reflects the differences in the markets for 800 subscriber and dial-around calls, especially the different rates and rate structures. The composite rate must also reflect the 2/3-to-1/3 mix of subscriber 800 and dial-around traffic.
- The only other sustainable alternative is to establish a proper cost-based rate which relies on the costs of the LECs, who operate about 75% of all payphones. It's clear from Payphone II that the local coin rate cannot be used as a starting point. The Commission should instead determine directly a cost-based rate, based on the LEC cost data in the record (SWB, NET, Sprint Local).

## **Procedural Issues**

- If the Commission declines to reconsider the possibility of calling party pays, there is no need to solicit any additional comments.
- If the Commission decides to solicit additional comments, it should confine them to the calling party pays issue.
- In no event should the Commission allow the introduction of new factual material, either through formal comments or ex parte presentations, that could have been made available at an earlier stage in the proceedings. The Commission must allow a reasonable period of time for parties to respond to any new material introduced into the record.